

REMARKS

Claims 95, 96, and 98-118 are pending in this application. Claims 95, 96 and 98-105 stand rejected, while claims 106-118 are withdrawn from consideration. Applicant has cancelled claims 97, 98, and 102.

Claim 95 has been amended to replace "a portion but not all of the extracellular domain" with "fragment consists of" and to add " pleiotrophin-binding fragment". The amended claims are fully supported by the specification (page 3, lines 20-25) and original claims.

Claim 101 has been amended to remove dependency from claims 97 and 98 and to add "further comprising a pharmaceutically acceptable carrier". The amended claims are fully supported by the specification and original claims 29 and 30.

New claims 119-123 are directed to an Fc fusion protein comprising a pleiotrophin-binding fragment of anaplastic lymphoma kinase (ALK). The amended claims are fully supported by the specification (page 3, lines 20-25; page 19, lines 1-2) and original claims.

No new matter has been introduced. Applicant respectfully requests reconsideration in view of the following remarks. The Examiner's rejections and comments are addressed below in the order they were raised in the Office Action.

DETAILED ACTION

1-3. Applicant notes with appreciation that the amendments filed 11 August 2006 and 12 October 2006 have been entered.

Election/Restrictions

4. Applicant acknowledges that claims 106-118 are withdrawn.

Withdrawn Rejections and Objections

5. Applicant notes with appreciation that rejections and objections of the previous Office Action, labeled A-D in this Office Action, have been withdrawn.

Rejection of Claims 95-105 under 35 USC § 102(b) (Morris et al.)

6. Claims 95-98 stand rejected as allegedly being anticipated by Morris et al. The Examiner alleges that Morris et al. discloses and claims the extracellular domain of human ALK that comprises the first 1030 residues of the peptide, including the signal sequence. The Examiner contends that this is clearly "a portion but not all of the extracellular domain" as recited in claim 95. Applicant respectfully traverses.

Morris et al. do not disclose the PTN-binding domain of ALK. Morris et al. fail to disclose the claimed invention, i.e., Morris et al. do not teach the PTN binding fragment or the interaction of PTN and ALK. Prior to this filing, there was no recognition in the art that ALK was the receptor for PTN. Morris et al. generate antibodies to characterize ALK and to isolate ligands to the orphan receptor. However, Morris et al. fail to identify the ligand.

The standard for anticipating a claim is clearly outlined in MPEP 2131, and this standard is further supported by the Courts. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1978). "The identical invention must be shown in as complete detail as is contained in the claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

As shown above, Morris et al. do not disclose all the limitations of the present claims and thus fail to anticipate the claimed subject matter. Reconsideration and withdrawal of this rejection under 35 U.S.C. § 102(b) are respectfully requested.

Rejections of Claims 95-96 and 98-105 under 35 USC § 112, First Paragraph

7. The Examiner has rejected claims 95-96 and 98-105 for allegedly failing the written description requirement. The Examiner contends that he is unable to find support in the specification for, "a polypeptide comprising a portion but not all of the extracellular domain" of ALK as recited in claim 95. The instant application provides ample support for the instant claims, specifically page 3, lines 1-6. However, solely in an effort to expedite prosecution, claim 95 has

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been amended to remove this phrase. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Rejection of Claim 101 under 35 USC § 112, Second Paragraph

8. The Examiner has rejected claim 101 for allegedly being indefinite. Applicant has amended claim 101 to remove dependency from claims 97 and 98. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Rejection of Claims 95-96 and 101-103 under 35 USC § 102(b) (Caughey et al.)

9. The Examiner has rejected claims 95-96 and 101-103 under 35 U.S.C. 102(b) as allegedly being anticipated by Caughey et al (1999. Journal of Chromatography B: Biomedical Sciences and Applications 728(1):49-57). Caughey et al. allegedly teach a polypeptide consisting of residues 280-480 of ALK. Applicant respectfully traverses.

Caughey et al. teach murine ALK. Caughey et al. do not disclose human ALK. In addition, Caughey et al. do not teach the PTN binding fragment or the interaction of PTN and ALK. As described above, it was not known in the art that ALK was the receptor for PTN until the instant application was filed. Although, Caughey et al. attempts to characterize ALK and develop tools to identify the ligand to this orphan receptor, this paper fails to identify the ligand. Thus no teachings in Caughey et al. lead to the PTN-binding domain.

To reiterate, “a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1978). Here, Caughey et al. do not disclose each and every element of the claim and thus fail to anticipate the claimed subject matter.

Reconsideration and withdrawal of this rejection under 35 U.S.C. § 102(b) are respectfully requested.

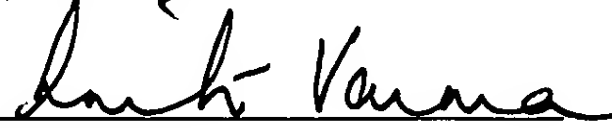
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CONCLUSION

In view of the foregoing amendments and remarks, Applicant submits that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Please charge any further fees or credit any overpayments to our Deposit Account No. 18-1945 from which the undersigned is authorized to draw, under order no. 102728-P01-004.

Dated: January 24, 2007

Respectfully submitted,

By 

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